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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,962	09/05/2006	Masahiro Nakazaki	0020-5421PUS1	6132
2292 7590 03/24/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER KHAN, AMINA S				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
03/24/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/551,962

**Applicant(s)**

NAKAZAKI ET AL.

**Examiner**

AMINA KHAN

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/11/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s) Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s) Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 11, 2008 has been entered.
2. Claims 1-18 and 20 are pending. Claims 1 and 6 have been amended. Claim 19 has been cancelled.
3. The rejection of claims 1,2,5-7 and 10 under 35 U.S.C. 103(a) as being unpatentable over Vanlerberghe et al. (US 4,371,517) is withdrawn.
4. The rejection of claims 3,4,8 and 9 under 35 U.S.C. 103(a) as being unpatentable over Vanlerberghe et al. (US 4,371,517) in view of Moller et al. (WO 01/34106) is withdrawn.

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5. The rejection of claims 3,4,8 and 9 under 35 U.S.C. 103(a) as being unpatentable over Vanlerberghe et al. (US 4,371,517) in view of Moller et al. (WO 99/18916). is withdrawn.

6. The rejection of claims 1-10,12 and 14-18 under 35 U.S.C. 103(a) as being unpatentable over Pai (US 5,516,338) in view of Collier et al. (US 2005/02106600) is withdrawn.

7. The rejection of claims 1-10,12 and 14-18 under 35 U.S.C. 103(a) as being unpatentable over Pai (US 5,516,338) in view of Sargent et al. (US 5,316,850) is withdrawn.

8. Claims 1-3, 5-8, 10-18 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. (US 5,212,040) for the reasons set forth in the previous office action.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1,3-6,8-10 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pai (US 5,516,338).

Pai teaches dyeing textiles cotton with basic dyes after the cotton has been treated with a sulfonic group containing stain resist agent (column 2, lines 10-17). Pai further teaches exhausting the cottons with tannic acids and ferric salts (column 3, lines 25-60). Pai further teach that all tannins contain hydroxyphenols (column 3, lines 50-55).Pai further teach over dyeing fabrics or yarns with these methods (column 3, lines 10-15).

Pai does not teach all the claimed limitations in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the instantly claimed components from the methods of Pai because Pai et al. teach these components as effective in coloring cotton fabrics.

All disclosures of the prior art, including non-preferred embodiment, must be considered. See *In re Lamberti and Konort*, 192 USPQ 278 (CCPA 1967); *In re Snow* 176 USPQ 328(CCPA 9173). Nonpreferred embodiments can be indicative of obviousness, see *Merck & Co. v. Biocraft Laboratories Inc.* 10 USPQ 2d 1843 (Fed. Cir. 1989); *In re Lamberti*, 192 USPQ 278 (CCPA 1976); *In re Kohler*, 177 USPQ 399. A reference is not limited to the working examples, see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982).

***Response to Arguments***

11. Applicant's arguments filed regarding Pai et al. have been fully considered but they are not persuasive. The examiner asserts that the Pai et al. teach it is conventional to pre-treat cotton with agents leaving sulfonic groups for stain resistance prior to coloring (column 2, lines 10-20) and further treating with a source of tannin such as tannic acid or myrobalan extract. The Myrobalan extract is not considered a dye but rather a source of the tannic acid colorant. Furthermore, Pai et al. teach the functional equivalence of coloring with tannic acid and Myrobalan extract. Accordingly, Pai et al. meet the limitations of the instant claims.

12. Applicant's arguments filed regarding Sanders et al. have been fully considered but they are not persuasive. The examiner asserts that the Sanders et al. teach coloring papers pretreated with microcapsules comprising polymethacrylates or acrylates (column 9, lines 30-40; column 10, lines 20-25), tannic acid and metal salts (column 13, lines 10-30; 65-68) with pigmented toner particles (column 18, lines 35-50; column 19, lines 25-30). Accordingly, Sanders et al. meet the limitations of the instant claims.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796

AK  
September 4, 2007